

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CYNTHIA D. WALKER,

Plaintiff,

v.

RHA/HOWELL CARE CENTERS, INC.,

KANDY JOHN, DEBORAH FOSTER,

Defendants.

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RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE

This employment discrimination action comes before the Court on a Motion to Dismiss [Doc. #12] pursuant to Federal Rule of Civil Procedure 12(b)(6) filed by individual Defendants Kandy John and Deborah Foster. In the Motion to Dismiss, Defendants note that Plaintiff Walker's claims arise under the Americans with Disabilities Act of 1990, as amended ("ADA"). The ADA, however, does not permit an action against individual supervisors for violation of its provisions. Baird ex rel. Baird v. Rose, 192 F.3d 462, 471-71 (4th Cir. 1999) (holding that the ADA does not permit action against individual defendants). Therefore, Plaintiff Walker cannot state a claim upon which relief may be granted under the ADA against individual Defendants John and Foster.

Plaintiff Walker has filed a Response [Doc. #15] to Defendants' Motion to Dismiss, stating that she will not contest the Motion to Dismiss by Defendant John and Defendant Foster, but noting that she is still pursuing her claim against Defendant RHA Howell Care Centers, Inc. No motion to dismiss is pending as to Defendant RHA. Therefore, the Court

recommends that the Motion to Dismiss filed by Defendants Kandy John and Deborah Foster be granted and that all claims against them be dismissed. The case will continue as to Defendant RHA Howell Care Centers, Inc.

IT IS THEREFORE RECOMMENDED that the Motion to Dismiss [Doc. #12] filed by Defendant John and Defendant Foster be granted, and that all claims against these two Defendants be dismissed. The case should proceed as to Defendant RHA Howell Care Centers, Inc.

This, the 1st day of August, 2014.

/s/ Joi Elizabeth Peake
United States Magistrate Judge